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Human Rights Challenges in Mexico: Addressing Enforced Disappearances

Mexico faces significant human rights concerns amidst record violence related to drug trafficking and organized crime. Since 2006, the government estimates that 275,000 people have been killed and another 71,678 have disappeared. In some cases, referred to as “enforced disappearances,” those disappearances have involved the complicity of state forces. Congress has taken steps to address the general human rights situation in Mexico, as well as the specific issue of enforced disappearances, through foreign assistance and conditions on that assistance, hearings, and letters to Mexican and U.S. Administrations.

Background

The United Nations (U.N.) International Convention for the Protection of All Persons from Enforced Disappearance defines the term *enforced disappearance* to mean

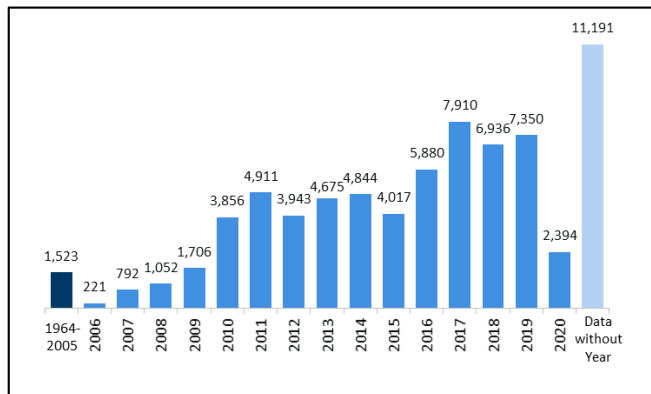
the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

The phenomenon of enforced disappearances rose to prominence in Latin America during the military dictatorships of the 1960s-1980s. During the “dirty wars” of this period, officials arrested and “disappeared” individuals as a strategy to silence insurgents and opposition activists. Mexico is distinct in its experience with enforced disappearances; only a small fraction of those who have disappeared in Mexico went missing during the country’s “dirty war” period (1,500 out of an estimated 73,200 total; see **Figure 1**). The vast majority of enforced disappearances have occurred more recently.

Enforced Disappearances in Mexico

As of July 2020, Mexican authorities estimated that 71,678 people had disappeared since drug trafficking related violence began to escalate in 2006, and then-president Felipe Calderón launched a military-led response. Despite criticism that military-led antidrug strategies have contributed to an escalation in homicides and enforced disappearances, former President Enrique Peña Nieto (2012-2018) and current President Andrés Manuel López Obrador have largely maintained Calderón’s approach. While criminal groups have carried out many of the disappearances, state forces have participated, or have been complicit, in many cases.

Figure 1. Disappearances in Mexico, 1964-2020



Source: National Search Commission, Government of Mexico.

Human rights organizations have identified patterns of behavior regarding enforced disappearances in Mexico. In many cases, police or military officials first detain people from whom they seek to obtain confessions or gather intelligence without warrants or probable cause. Some detainees are tortured for purposes of obtaining information and then “disappeared” by security forces to cover up their deaths. Others are handed over to organized crime groups, who often hold them for ransom, extort them, or use them for forced labor. Victims’ families routinely face threats and intimidation from authorities when trying to report disappearances. Families are often forced to carry out searches for disappeared family members on their own.

Ayotzinapa, Guerrero

The case of the 43 students who disappeared in Ayotzinapa, Guerrero, in September 2014 attracted global attention. The initial investigation by the federal attorney general’s office found that local police had arrested the students on orders from the mayor and handed them over to a criminal group. Experts from the Inter-American Commission on Human Rights disproved those findings, which did not consider the involvement of federal forces in the case. In 2018, a federal judge deemed the initial investigation flawed. President López Obrador later established a truth commission on Ayotzinapa, and a new special prosecutor within the federal prosecutor general’s office—which has replaced the attorney general’s office—reopened the case. In March 2020, a federal judge issued arrest warrants sought by the special prosecutor’s office for a former Mexican marine and five former officials in the office of the attorney general for torture and obstruction of justice related to the case. Arrest warrants also have been issued for dozens of Mexican soldiers and police. DNA analysis has helped identify the remains of at least two students; the other students have yet to be identified.

Nuevo Laredo, Tamaulipas

Some 36 people vanished between February and May 2018 in Nuevo Laredo, Tamaulipas. Witness reports collected by the U.N. Office of the High Commissioner for Human Rights indicated that federal security forces detained many of those individuals, including youth under the age of 18. Despite evidence that implicated the Mexican navy, prosecutors delayed investigations of the cases. Witnesses reported threats and harassment after reporting the disappearances. In July 2020, Mexico's National Human Rights Commission released a report that attributed 27 of the disappearances to the navy and recommended that criminal investigations be opened against those responsible.

Government Response

Until recently, the Mexican government did little to address the issue of enforced disappearances. In 2017, the Peña Nieto administration supported passage of a law on enforced disappearances but did not ensure its implementation. The law created a National Search Commission (CNB), but the CNB did not receive sufficient funds to carry out its mission.

The López Obrador administration has taken steps toward addressing enforced disappearances. The administration has met regularly with families of the missing, launched an online portal for reporting missing persons, supported community-led searches, and ensured that all states create state-level search commissions. The CNB, which received budget increases in 2020 and 2021, has registered more than 1,143 clandestine graves and identified 712 of the 1,682 bodies exhumed from those graves. The International Committee of the Red Cross (ICRC), International Commission on Missing Persons (ICMP), and others have supported the CNB's efforts. Families have complained, however, that the CNB has had problems mobilizing to search for missing persons who may still be alive. On September 2, 2020, the Mexican senate approved the competence of the U.N. Committee on Enforced Disappearances to consider cases of disappeared persons in Mexico.

Amidst what the interior ministry has deemed a "forensics crisis," the government is seeking international assistance for an "Extraordinary Mechanism for Forensic Identification" to resolve a backlog of some 39,000 unidentified bodies in morgues. Mexico has received some support from Argentine and Guatemalan forensics experts.

Obstacles continue to impede Mexico's efforts to address enforced disappearances according to many human rights organizations. These obstacles include inadequate funds and staffing on commissions and in forensics labs; the mishandling of bodies and case information; limited information sharing and trust among families, commissions, and prosecutors; low political will in some states; and inadequate access to DNA analysis. Due to these challenges, impunity for perpetrators of forced disappearances persists. In 2019, for example, Mexican prosecutors secured no convictions for enforced disappearances. The prosecutor general's office has reportedly requested less funding for forensic and victims'

assistance in 2021 than in 2020, at a time when the services offered to victims' families are quite limited.

U.S. Response

The U.S. Department of State and the U.S. Agency for International Development (USAID) have supported efforts to address enforced disappearances in Mexico. Within the State Department, the Bureau of International Narcotics and Law Enforcement Affairs (INL) has provided forensics assistance that has enabled all of Mexico's federal labs and several state labs to receive international accreditation. INL is helping Mexican officials conduct forensic analysis of decomposed bodies, present DNA evidence at trial, and identify remains. With the Federal Bureau of Investigation, INL is helping the prosecutor general build a national genetics database. The Bureau on Population, Refugees, and Migration has provided funds to enable the ICRC to support state-level search commissions. In FY2018, the Bureau of Democracy, Human Rights, and Labor (DRL) provided nearly \$1 million to help relevant stakeholders use forensics to search for and identify the disappeared. Mexico has not been among the countries that have received DRL forensic funds earmarked for mass exhumations.

USAID helped draft Mexico's 2017 law on enforced disappearances, supported the CNB and the creation of a national search protocol, and strengthened seven state search commissions. USAID continues to support the CNB, the Extraordinary Mechanism to identify backlogged remains, state search commissions, and victims' groups.

Congressional Action

Congressional concerns about human rights abuses in Mexico have intensified as U.S. security assistance to Mexico has increased under the Mérida Initiative, a security and rule-of-law partnership launched in 2007 for which Congress has provided more than \$3 billion. Since FY2008, Congress has conditioned the annual provision of a percentage of certain U.S. assistance to Mexican security forces on the State Department's submission of a report confirming that Mexico has made progress in complying with human rights standards. Since FY2014, those standards have included addressing enforced disappearances. In FY2014 and FY2016, the State Department did not submit a report, as they assessed Mexico had not met the criteria.

The 116th Congress could appropriate additional assistance to bolster Mexico's efforts to find and identify victims and to support federal and state-level special prosecutors investigating disappearance cases. At an October 2020 Lantos Commission hearing, witnesses recommended U.S. support for the Extraordinary Mechanism; continued funding for forensics labs, experts, and infrastructure; and continued support for families and victims' organizations. Some witnesses also urged the U.S. government to consider allowing families to access DNA databases on migrants who have died on the U.S. side of the border.

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